IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4607 OF 2006

Shri Balu @ Rohidas Shankar Mawale ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. Vaibhav Jathar for applicant.
Mr. Y.S. Shinde, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : January 31, 2007.

P.C.:

1. Heard Mr. Vaibhav Jathar the learned Advocate for the applicant who is accused no.3 in C.R. No.185/06 registered with the Shirur Police Station in Pune District for the offences punishable under Section 307 read with Section 34 of IPC.

2. As per the prosecution case Chandar @ Ramchandra Chimaji Mawale, aged 65 years, was assaulted by the accused on 6/9/2006 at about 3 p.m. at village Malthan, Taluka Shirur. The victim was hospitalised and on 12/9/2006 his statement came to be recorded. Similarly, the I.O. has recorded the statement of Mrs.Chandrakala Balkrishna Gosavi on 11/9/2006 and both these witnesses who claim to be eye

witnesses, attribute to the present applicant a limited role to the extent that he had kicked and given fist blows to the victim in the incident, whereas other two accused had assaulted the victim by iron rod and metallic chain.

3. The applicant has been taken in custody on 10/9/2006 and his application for bail filed for the second time came to be rejected by the learned Ad-hoc Additional Sessions Judge on 20/12/2006. The learned Ad-hoc Additional Sessions Judge at Pune recorded the statement of the learned APP that the accused are goons and they are in the habit of causing terror in the village and if they would be released on bail, they are likely to cause danger to the life of prosecution witnesses. The court below noted that though the applicant is of the age of 64 years and is residing in a remote area, the possibility of his tampering with the evidence of the prosecution by threatening the witnesses cannot be ruled out and, therefore, the plea for being released on bail was rejected. This application i.e. Criminal Misc. Application No.2901 of 2006 under Section 439(1) of Cr.P.C. was moved by all the accused, however,

accused no.3 has approached this court.

4. I am satisfied that the case of accused nos.1 and 2 cannot be compared with the case of the present applicant for being released on bail while pending trial, more so when the role attributed to the present applicant is different from the allegations set out by the eye witnesses against accused nos.1 and 2. On completion of the investigation, charge-sheet has been filed on 6/12/2006 and under these circumstances, there is no justification for the accused being retained in jail pending the trial.

5. Hence, this application is allowed and it is directed that the applicant (accused no.3) - Shri Balu @ Rohidas Shankar Mawale be released on bail on furnishing a PR bond in the sum of Rs.10,000/- and two solvent sureties in the like amount and on the further condition that he shall attend to the Sessions Court as and when required and he shall not act in any manner thereby tampering with the evidence of the prosecution.

(B.H. Marlapalle,J.)